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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/699,036
Filing Date: October 31, 2003
Appellant(s): BRADFIELD ET AL.

David E. Shifren
Registration No. 59,329
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/04/2009 appealing from the Office action

mailed 10/30/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| 6,971,107 | Sjostrom et al. | 3/22/2001 |
| 6,523,022 | Hobbs | 7/07/1999 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Sjostrom et al. (US 6,971,107) in view of Hobbs (US 6,523,022).

Claim 1: Sjostrom discloses a method of processing a web page in a browser, the web

page comprising a plurality of frames, comprising:

a. displaying a first frame while loading a second frame (column 5, lines 14-30).

Sjostrom discloses permitting the user to interact with the first frame regardless

of whether the second frame is sufficiently loaded (column 5, lines 14-30). Specifically,

Sjostrom discloses a navigation frame is loaded with general navigation including links

and buttons for the user to activate. Sjostrom does not explicitly disclose preventing a

user from interacting with the first frame until after the second frame is sufficiently

loaded, said prevention occurring after a determination is made that the first frame

depends on the second frame. Hobbs discloses a similar method that further discloses

the use of modal windows (frame) which prevents the user from interacting with an underlying application window (frame) (column 31, lines 1-20). The user must wait to interact with the application window until the modal frame is loaded and closed through user interaction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to prevent a user from interacting with a first displayed frame while loading a second frame after determining that the first frame depends on the second frame in Sjostam. One would have been motivated to prevent a user from interacting with a displayed first frame until after a second frame is sufficiently loaded in order to block application workflow to minimize the likelihood of an error.

Sjostrom further discloses the first frame is displayed until after the second frame is sufficiently loaded regardless of whether the user in permitted to interact with the first frame (column 5, lines 14-30). Specifically the navigation frame is displayed after the content frame is fully loaded.

Hobbs further discloses the preventing step further comprises instructing the user to wait to interact with the first frame until after the second frame is sufficiently loaded (column 31, lines 1-20). A modal window is displayed which instructs the user to wait to interact with the first window by freezing the content of the first window until the second window is dismissed. Therefore, it would have been obvious to instruct the user to wait to interact with the first frame until after the second frame is sufficiently loaded in Sjostrom. One would have been motivated to include this feature in order to block application workflow to minimize the likelihood of an error.

Claim 5: <u>Sjostrom</u> and <u>Hobbs</u> disclose a system for making a web browser act like a stand-alone application as in Claim 1 above, and <u>Hobbs</u> further discloses the second portion is sufficiently loaded when it is fully loaded (column 31, lines 1-20).

Claim 6: <u>Sjostrom</u> and <u>Hobbs</u> disclose a system for making a web browser act like a stand-alone application as in Claim 1 above, and <u>Sjostrom</u> further discloses the browser is implemented on a client computer system (Figure 1).

Claim 7: <u>Sjostrom</u> and <u>Hobbs</u> disclose a system for making a web browser act like a stand-alone application as in Claim 1 above, and <u>Sjostrom</u> further discloses the browser is implemented on a client computer system the browser comprises a web browser (Figure 1).

(10) Response to Argument

Appelant argues that <u>Sjostram</u> and <u>Hobbs</u> fail to teach the limitations for which the Examiner is relying upon, in Claims 1 and 5-7.

Argument 1: Even assuming that the use of a modal window taught by Hobbs could be characterized as preventing a user from interacting with a first frame until after a second frame is sufficiently loaded, Appellants note that the relied-upon portion of Hobbs in fact teaches away from such a technique. As such, Hobbs teaches away from the limitation at issue in which a user is prevented from interacting with the first frame until after the

second frame is sufficiently loaded. Appellants respectfully submit that this is not a

situation where 'the prior art's mere disclosure of more than one alternative does not

constitute a teaching away from any of these alternatives because such disclosure does

not criticize, discredit, or otherwise discourage the solution claimed.

Argument 2: Moreover, even assuming that Sjostrom could be characterized as

teaching a technique in which a user is permitted to interact with the first frame

regardless of whether the second frame is sufficiently loaded and that Hobbs could be

characterized as teaching a technique in which a user is prevented from interacting with

the first frame until after the second frame is sufficiently loaded, such teachings would

nonetheless fail to meet the limitations of claim 1. Specifically, as noted above, claim 1

recites a specific arrangement in which, after a <u>determination is made that the first</u>

<u>frame depends on the second frame,</u> a user is prevented from interacting with the first

frame until after the second frame is sufficiently loaded. Otherwise, i.e., <u>if such a</u>

<u>determination is not made,</u> the user is permitted to interact with the first frame

regardless of whether the second frame is sufficiently loaded. Appellants respectfully

submit that Sjostrom and Hobbs contain no teaching or suggestion directed to

<u>determining whether a first frame depends on the second frame</u>, much less preventing

or permitting user interaction with the first frame <u>based on such a determination</u>, as

recited on claim 1. Indeed, both references teach away by instead disclosing techniques

in which user interaction with a frame is <u>entirely unrelated </u>to whether that frame

depends on another frame.

Argument 3: Appellants respectfully submit that the Examiner's assertion that the

limitations of claim 5 is taught by Sjostrom at column 31, lines 1-20, is clearly erroneous

at least by virtue of the fact that there is no column 31 of Sjostrom. Appellants

respectfully submit that this alone is sufficient to render the present rejection of claim 5

invalid. Assuming arguendo that the Examiner instead meant to cite to Hobbs at

column 31, lines 1- 20, which Appellants note is the portion of Hobbs relied upon by the

Examiner in formulating the rejection of claim 1, Appellants submit that the present

rejection remains substantively incorrect. Even assuming arguendo that Hobbs could be

characterized as teaching a technique in which a user is prevented from interacting with

the first frame until after the second frame is sufficiently loaded, there is simply no

teaching or suggestion directed to a technique in which a user is prevented from

interacting with the first frame until after the second frame is <u>fully loaded.</u> More

particularly, although Hobbs states that "making a modal window appear in front of an

applet would cause any buttons generated by the applet and appearing to the side of

the window to freeze until the modal window is closed," (and assuming arguendo that

one could analogize the applet and modal window to the respective first and second

frames recited in claim 1), there is no teaching or suggestion that the modal window

could not be closed until after the modal window is fully loaded.

The Examiner respectfully disagrees.

Response to argument 1: Appellant discloses: "Even assuming that the use of a modal window taught by Hobbs could be characterized as preventing a user from interacting with a first frame until after a second frame is sufficiently loaded, Appellants note that the relied-upon portion of Hobbs in fact teaches away from such a technique".

The Examiner notes that Hobbs discloses two types of modal windows, a standard modal window and a semi modal window. Modal windows are well known in the computer arts, as demonstrated by the disclosure by Hobbs. Hobbs discloses "For example, making a modal window appear in front of an applet would cause any buttons generated by the applet and appearing to the side of the window to freeze until the modal window is closed". Hobbs does not teach away from the use of a modal window, but rather discloses using the alternative semi modal window. One of ordinary skill in the art at the time the invention was made would have been able to apply the teaching of a modal window which freezes background functions to Sjostram based on their choice of operation.

Response to argument 2: Appellant discloses: "Appellants respectfully submit that Sjostrom and Hobbs contain no teaching or suggestion directed to <u>determining whether a first frame depends on the second frame</u>, much less preventing or permitting user interaction with the first frame <u>based on such a determination</u>, as recited on claim 1. Indeed, both references teach away by instead disclosing techniques in which user interaction with a frame is <u>entirely unrelated </u>to whether that frame depends on another frame".

The Examiner respectfully disagrees. Sjostram discloses loading a content frame with a "Please Wait While Application Loads" message to deter the user from interacting with the content frame. However this teaching does not prevent a user from interacting with the navigation frame which includes links. Hobbs discloses the teaching of a modal window that freezes background functionality, which as previously stated, is well known in the computer arts. By using a modal window, a dependency is created between the background objects and the modal window displayed in the foreground.   A determination is made that the background frame depends on the modal window because the background applet is frozen until the modal window is addressed. Otherwise, as illustrated by Sjostram, the navigation frame is loaded with general navigation including links for the user to activate if such a determination is not made.

Response to argument 3: Appellant discloses: "Appellants respectfully submit that the Examiner's assertion that the limitations of claim 5 is taught by Sjostrom at column 31, lines 1-20, is clearly erroneous at least by virtue of the fact that there is no column 31 of Sjostrom. Appellants respectfully submit that this alone is sufficient to render the present rejection of claim 5 invalid".

The Examiner notes that the Final Office Action contained a typo, where the rejection of Claim 5 referenced Sjostram for column 31, lines 1-20. The correct reference is Hobbs at column 31, lines 1-20. However, as understood by applicant on page 7 of the appeal brief, the rejection still stands as a rejection under Sjostram modified by Hobbs. Appellant states on page 7: "Even assuming arguendo that Hobbs

could be characterized as teaching a technique in which a user is prevented from interacting with the first frame until after the second frame is sufficiently loaded, there is simply no teaching or suggestion directed to a technique in which a user is prevented from interacting with the first frame until after the second frame is <u>fully loaded.</u> More particularly, although Hobbs states that "making a modal window appear in front of an applet would cause any buttons generated by the applet and appearing to the side of the window to freeze until the modal window is closed," (and assuming arguendo that one could analogize the applet and modal window to the respective first and second frames recited in claim 1), there is no teaching or suggestion that the modal window could not be closed until after the modal window is fully loaded."

The Examiner respectfully disagrees. The modal window disclosed by Hobbs "does not close automatically if one clicks in its background as typical pop-up windows do", rather the modal window "causes any buttons generated by the applet and appearing to the side of the window until the modal window is closed (column 31, lines 1-20)." The appellant has not presented any evidence that the modal window disclosed by Hobbs is not fully loaded at the time that it is addressed, nor does Hobbs teach a modal window that is not fully loaded. Rather Hobbs teaches a modal window that must be closed before any functions can be activated in the background applet, demonstrating the functionality of claim 1.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Omar Abdul-Ali

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8/14/2009

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